

EXHIBIT 310

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4
5

 IN RE NATIONAL PRESCRIPTION | Case No. 17-MD-2804
6 |
 OPIATE LITIGATION | Hon. Dan A. Polster
7 |
 APPLIES TO ALL CASES |

8
9 - - -
10 Thursday, November 15, 2018
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 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
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 CONFIDENTIALITY REVIEW
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 Videotaped deposition of JEFF ABERNATHY,
18 held at the offices of Mitchell Williams,
 4206 South J.B. Hunt Drive, Suite 200, Rogers,
19 Arkansas, commencing at 9:37 a.m., on the above
 date, before Susan D. Wasilewski, Registered
20 Professional Reporter, Certified Realtime
 Reporter and Certified Realtime Captioner.
21
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23 - - -
24 GOLKOW LITIGATION SERVICES
 877.370.3377 ph | 917.591.5672 fax
25 deps@golkow.com

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15 Q. Sir, were you aware in 2007, that Walmart,
16 as a distributor of controlled substances, had an
17 obligation to monitor for suspicious orders?

18 A. I wouldn't -- I don't know that I was aware
19 of an obligation. We did -- we did monitor for --
20 we did monitor orders, so --

21 Q. Can you be more specific when you say "we
22 did monitor orders"?

23 A. I mean, we -- we would print 222 forms every
24 day in this time frame. So we would pull those 222
25 forms for however many stores we needed that day,

1 and we would print those 222 forms. And the ladies
2 who were physically printing those forms, they
3 looked at those orders; and if they saw something
4 that maybe looked like it was kind of high, just

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[illegible]

23 A. So the picking folks were responsible for
24 filling the order that came to them, yes.

25 Q. And Walmart, in 2010, had a policy in place

1 where the folks who were responsible for picking the
2 orders would also report to you if they saw anything
3 suspicious?

4 A. I can't say that there was a policy stating
5 that. They -- they would just do that.

[illegible]

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■ [REDACTED]

6 So during this time period in 2012, let's
7 say an order for oxy 5 milligram comes in on a
8 Monday for 51 bottles. Okay?

9 A. For which drug?

10 Q. Oxy 5 milligrams.

11 A. Okay.

12 Q. Okay? You're supposed to have a process in
13 place, right, where you look at orders over 50,
14 correct?

15 A. Yes.

16 Q. Okay. And what was the expectation as to --
17 with respect to when that order would be filled and
18 shipped, if the order came in on a Monday?

19 A. So Monday morning, typically when Jimmie
20 came in, since he was the first one in, before we
21 started the pick process, he would pull all of those
22 orders and export it to a spreadsheet and then we
23 would, you know, sort those to show me orders or in
24 the order column, show me everything over 50, show
25 me all the oxy's over 30, and we would filter it out

1 that way so that we could see here is all of my
2 oxy-30s that were over 20 and here's all the other
3 drugs that were over 50.

4 Q. And if another dosage of oxycodone was over
5 50, what would you do?

6 MR. MAZZA: Object; form.

7 Q. I'll strike that.

8 If another order came in for another dosage
9 of oxycodone that was not oxy-30s, it was oxy-10s or
10 oxy-5s, that was over 50 bottles -- we're talking
11 bottles, correct?

12 A. Yes.

13 Q. Okay. What would you do?

14 A. So I guess I don't understand when you say
15 "another order." Like the next store in line?

16 Q. Well, let's -- let's take a step back. All
17 right.

18 A. Okay.

19 Q. Go back to my first example, right. A store
20 orders 51 bottles of oxy-5 milligrams on Monday.

21 A. Okay.

22 Q. The order comes in on Monday. You get your
23 printout of that order. Then what happens?

24 A. So then we would send that over to the team,
25 the teams I spelled out, and we would say, "This


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1 store for this product ordered 51 bottles."
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2 Q. And from your perspective, what would happen
3 next?

4 A. Then we would wait. If they would send us
5 back whatever communication or if we needed to do
6 something with the order, we would just wait for
7 that.

8 Q. And how would they inform you of what to do
9 with the order?

10 A. E-mail.

11 Q. And that's what happened on a daily basis,
12 correct?

13 A. Yes, sir.

14 Q. During this time period, when would you have
15 expected to hear back from them regarding what to do
16 with the order?

17 A. So we shipped every day at 3:00 p.m. I mean
18 we had had discussion, that's the -- that's the time
19 we ship. They had known that. So if we didn't hear
20 anything back by 3:00 p.m., then we went ahead and
21 shipped the item.

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24 A. Yes, sir.

25 Q. Okay. And at this point in the day, at

1 9:38 a.m., had he already reviewed that day's
2 orders?

3 A. Yes, sir.

4 Q. And he had decided to cut some orders,
5 correct?

6 A. Yes, sir.

7 Q. And he had decided to not cut other orders,
8 correct?

9 A. Yes, sir.

10 Q. Okay. Had he -- had -- strike that.

11 For the orders that he decided to cut, what
12 would be the basis for that decision?

13 MR. MAZZA: Object; foundation.

14 A. I -- I don't know. I mean --

15 Q. Well, sir, you also had -- this was also
16 your responsibility at the time period, correct?

17 A. It was my responsibility if I came in first
18 that day.

19 Q. Right. So what was the criteria for
20 cutting?

21 A. If anything over 20 bottles of oxycodone-30,
22 cut it to 20.

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■ [REDACTED] [REDACTED]

[illegible]

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24 A. For the time period that we were doing the
25 Over 20 Report?

1 Q. Right.

2 A. We would be the ones cutting them at the DC.

3 Q. And someone --

4 A. If we were instructed to do that.

5 Q. Right.

6 And how would -- how would -- how would of
7 those -- those instructions come to you, via e-mail
8 or telephone?

9 A. E-mail.

10 Q. Do you recall an instance -- any instance
11 where you got an e-mail to cut an order?

12 A. I don't remember any given instance to --
13 that we did that.

14 Q. Do you remember that ever happening in this
15 four- to five-year time frame?

16 A. In this time frame for the Over 20 Report, I
17 don't remember -- I don't remember me getting any
18 kind of a phone call or an e-mail to cut an order.

19 Q. So you guys were running these reports daily
20 for four to five years, and you never recall
21 receiving any direction to cut an order; is that
22 correct?

23 A. I don't remember -- I don't remember getting

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1 Q. Are you familiar with any time period, based
2 on your experience at 6045, when an order that
3 showed up on an Over 20 Report had to wait four days
4 before it was shipped?

5 A. For the Over 20 Report, I don't ever
6 remember holding an order during the time frame we
7 were using that report.

[illegible]

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14 Q. Did you report those orders to the DEA?

15 A. I did not.

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14 MR. MAZZA: Let's take that break before we
15 do the next document.

16 MR. BOWER: Can we just do -- I mean, we're
17 taking a lot of breaks.

18 MR. MAZZA: We've got one hour to go, so --
19 actually, now we have less than an hour to go.
20 And so I thought we'd take a break now and then
21 finish the hour. So let's take a break before we
22 do that document.

23 MR. BOWER: I don't know if it's -- we can
24 go off the record.

25 THE VIDEOGRAPHER: Going off the record, the

1 time is 5:20.

2 (Recess from 5:20 p.m. until 5:34 p.m.)

3 THE VIDEOGRAPHER: We're going back on the
4 record, beginning of Media File Number 7. The
5 time is 5:34.

6 (Abernathy Exhibit 25 was marked for
7 identification.)

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[illegible]

18 Q. Walmart had -- was doing business with
19 McKesson at the time, right? Its pharmacies were
20 ordering from McKesson, right?

21 A. Yes, sir.

[illegible]

The image consists of a single, uniform black rectangle that fills the entire frame. There are no discernible features, text, or patterns other than the solid black color.

[illegible]

[illegible]

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2 Q. In deciding whether to cut an order, you
3 never determined whether a pharmacy may have ordered
4 that same product from McKesson, did you?

5 A. No, sir.

6 Q. And you never determined whether -- you
7 never considered whether that pharmacy may have
8 ordered that product from AmerisourceBergen, did
9 you?

10 A. No, sir.

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[illegible]

1 MR. BOWER: All right. Let's go off the
2 record for a minute.

3 THE VIDEOGRAPHER: Going off the record.
4 The time is 5:52.

5 (Recess from 5:52 p.m. until 5:57 p.m.)

6 THE VIDEOGRAPHER: We're back on record, the
7 beginning of Media File Number 8. The time is
8 5:57.

9 (Abernathy Exhibit 28 was marked for
10 identification.)

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